



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,357	07/03/2001	Dennis P. Joyce	7000-075	1061

27820 7590 07/01/2002

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER

LY, NGHI H

ART UNIT PAPER NUMBER

2682

DATE MAILED: 07/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Office Action Summary

Application No.

09/898,357

Applicant(s)

JOYCE ET AL.

Examiner

Nghi H. Ly

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim 24 has been cancelled.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-23, 25 and 26 are rejected under 35 U.S.C. 102(a) as being anticipated by Hollenberg (US 6,091,956).

Regarding claim 1, Hollenberg teaches a method for delivering content to a mobile terminal comprising: determining a location of the mobile terminal (see column 8 lines 65-68), determining a locality encompassing the location of the mobile terminal (see column 5 lines 19-28 or column 8 lines 65-68), accessing content based on the locality and delivering the content to the mobile terminal (see column 7 lines 31-37 or column 9 lines 11-14).

Regarding claims 2 and 13, Hollenberg teaches the locality encompassing the mobile terminal is determined by: sending a request to a locality service to associate the location of the mobile terminal with a locality encompassing the location of the mobile terminal (see column 24 lines 25-28), receiving a response from the locality service identifying the locality encompassing the location of the mobile terminal (see column 24

lines 29-34), and the locality service includes a plurality of locations defining geographic areas (see column 8 lines 34-43 and fig.11 6u).

Regarding claims 3 and 14, Hollenberg teaches the content is accessed by: sending a request to a content provider including the locality (see fig.14 box 128 or column 24 lines 25-28), and receiving the content from the content provider (see fig.13 box 94 and box 99 or column 24 lines 29-34).

Regarding claims 4 and 15, Hollenberg teaches the step of accessing content is further based on a type of content desired by a user of the mobile terminal (see fig.14 box 127).

Regarding claims 5 and 16, Hollenberg teaches the step of accessing content is further based on characteristics of a user of the mobile terminal (see column 9 lines 15-22).

Regarding claims 6 and 17, Hollenberg teaches the locality defines a recognized geographic area (see column 5 lines 19-28 and column 16 lines 17-24, and see fig.11 6u, 6v, 6w and 6x).

Regarding claims 7 and 18, Hollenberg teaches the locality defines a geographic area about a point of presence for a content provider (see column 7 lines 31-40 and column 16 lines 17-24, and see fig.11 6u, 6v, 6w and 6x).

Regarding claims 8 and 19, Hollenberg teaches the content accessed based on locality relates to a point of presence within the locality (see column 9 lines 10-14 and column 16 lines 17-24, and see fig.11 6u, 6v, 6w and 6x).

Regarding claims 9 and 20, Hollenberg teaches accessing a profile associated with a user of the mobile terminal (see column 9 lines 15-22) and the step of accessing the content is further based on criteria within the profile such that the criteria further identifies the type of content to access (see column 9 lines 15-22).

Regarding claims 10 and 21, Hollenberg teaches accessing a profile associated with a point of presence with the locality (see column 16 lines 17-24 and see fig.11 6u, 6v, 6w and 6x) and wherein the step of accessing the content is further based on criteria within the profile such that the criteria further identifies the type of content to access (see column 32 lines 9-17).

Regarding claims 11 and 22, Hollenberg teaches the locality encompassing the mobile terminal is determined by identifying a zone of acceptance about the location of the mobile terminal and identifying the locality at least partially covering the zone of acceptance (see fig.14 "YES" in step 131 then follow by steps 127,128,129 and 130).

Regarding claims 12 and 23, Hollenberg teaches a system for delivering content to a mobile terminal comprising an interface (see fig.3 network 30b connect with 31b) and a control system (see fig.3 36b) adapted to: determine a location of the mobile terminal (see column 8 lines 65-67), determine a locality encompassing the location of the mobile terminal (see column 8 lines 65-67), access content based on the locality (see column 7 lines 33-37), and send the content to the mobile terminal (see fig.11 the display on wireless communication device).

Regarding claim 25, Hollenberg teaches a method for delivering content to a mobile terminal comprising: determining a location of the mobile terminal (see column 8

Art Unit: 2682

lines 65-68), determining a location of a point of presence having associated content (the Hollenberg's information menu 6u and mileage tabulation 6w read on the applicant's point of presence and proximity, respectively. See column 16 lines 17-24 and see fig.11 information menu or point of presence 6u, look ahead list 6v, the mileage tabulation or proximity 6w), determining a relative proximity between the location of the mobile terminal and the location of the point of presence (see column 16 lines 17-24 and see fig.11 information menu or point of presence 6u, look ahead list 6v, the mileage tabulation or proximity 6w), wherein the location of the point of presence is a locality (see fig.11 information menu or point of presence 6u, look ahead list 6v, the mileage tabulation or proximity 6w), accessing the associated content if the relative proximity between the location of the mobile terminal and the location of the point of presence is within a desired range (see column 16 lines 17-24 and see fig.11 information menu or point of presence 6u, look ahead list 6v, the mileage tabulation or proximity 6w) delivering the associated content to the mobile terminal (see fig.11 the display on wireless communication device).

Regarding claim 26, Hollenberg teaches the relative proximity between the location of the mobile terminal and the location of the point of presence is determined by determining a locality encompassing the location of the mobile terminal (see column 7 lines 33-40).

Response to Arguments

3. Applicant's arguments filed 04/17/02 have been fully considered but they are not persuasive.

On page 2 of applicant's remarks, applicant argue that the "localities" in claim requires a certain radius about a retailer's point of presence as state in the specification.

In response, the specification states that "a locality could be defined to include an area having a certain radius about a retailer's point of presence." It is importance to note that by using the words "could be", the locality does not require a radius about a point of presence. In this case, the examiner interprets the term "locality" as "a defined area associated with a point of presence". A point of presence is taught by Hollenberg (see fig.11 a point of presence 6u, and the proximity 6w show the user how far the distance between the user and point of presence).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2682

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

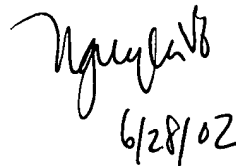
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Nghi H. Ly



June 25, 2002


6/28/02

NGUYENT.VO
PRIMARY EXAMINER